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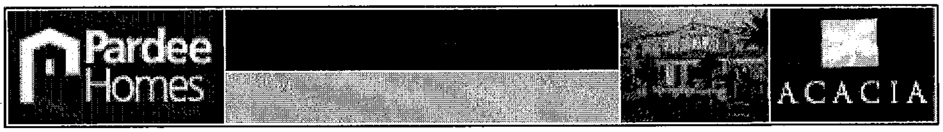

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April 15, 2005

Nevada players ante up online

By Liz Benston <benston@lasvegassun.com>
LAS VEGAS SUN

Every day hundreds of Las Vegas residents break the law for a shot at fame and fortune or just a bit of fun.

They work in casinos and in offices. They pay their taxes and hold steady jobs.

And many don't even know they are lawbreakers.

Among them is Jeff Larsen, a casino worker at the Bellagio who has turned a hobby into a part-time job.

From home, Larsen now plays up to eight games of online poker at a time on two computers. Gambling in Internet poker rooms up to 40 hours a week nets Larson about the same kind of money he makes at his casino job.

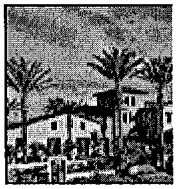
"It's convenient, the games are really good and you've got people on the Internet just giving their money away," he said. "Playing in a casino is just getting old for a lot of people."

David Matthews, a webmaster for the LasVegasAdvisor.com consumer Web site, said he makes about $150 per hour for the 20 or so hours per week he plays online poker.

"I can't afford not to play," Matthews said. "If I decided to play full time I could probably make $30,000 a month. "I know people who've given up their day jobs."

Online poker is faster, doesn't require tipping a dealer and often features cash bonuses for players, he said. It also draws players who are "fast and loose," translating into good games at all hours, he said.

"On a Wednesday in the morning you're not going to find a good game in Vegas," Matthews said. Players in Las Vegas cardrooms at that time are



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"better than average and protective with their money."

A casino manager in Las Vegas, who declined to be named, said he plays poker only online these days.

"People can see where I'm from online. I always get asked, 'Why do you play online when you can play in the casinos?' " the manager said. "I laugh and say, 'Because they look at you funny when you sit down in your underwear.' "

"At home I can multitask," the manager said. "I cleaned out my entire fish tank one day and never missed a hand."

It's a little-known fact that Nevada is only one of a handful of states that specifically prohibits both players and Internet operators from engaging in online betting.

A state law passed in 1997 barred the placing of wagers on the Internet. Persons who break the law are guilty of a misdemeanor.

The law doesn't exclude Internet poker.

Online poker players in Nevada and online poker rooms that take bets from state residents are breaking the law if they are dealing in real money, according to Nevada's top gaming regulator.

Nevada Gaming Control Board Chairman Dennis Neilander said his agency is considering whether to take its first steps to prosecute Internet poker players.

"We haven't taken any action yet and we're still ferreting through Internet wagering, not just for poker but all types of Internet gambling," Neilander said this week. "If there's not a change in the federal law it's something we have to consider."

Keith Copher, chief of the Gaming Control Board's enforcement division, said his agency doesn't have the manpower to go after players who make wagers online.

"We would request help from the federal government," Copher said. "The best way to pursue (prosecution) is to go after the providers, (but) they're out of our jurisdiction."

The state faces a "prohibition problem," Senior Deputy Attorney General Toni Cowan added. "Are you going to burst into people's homes, their living rooms or their cars?" she said.

That would take a virtual army.

EmpirePoker.com, one of the larger sites on the Internet, estimates that as many as 11,000 Nevadans gamble during peak hours online.

"We get a wide variety of players, from professional poker players to complete novice players who watch TV and like what they see and try to play," Empire Poker General Manager Ron Burke said.

Nevada is one of the top 10 states in terms of online players, behind bigger states such as California, New York and Texas, he said.

But Nevada players don't seem to worry about being lawbreakers.

The fear of prosecution has been a "nonissue" for online poker players, said Barry Shulman, co-publisher of the poker magazine Card Player in Las Vegas.

"Everybody I know plays online," Shulman said.

"States just aren't going to get excited about someone placing $100 in an account in Aruba where it's legal," he said. "It's not only extremely difficult to track but it's such a minor thing on their radar screen. They'd be far more interested if I'm running a poker game out of my house in Las Vegas and a lot more interested if I'm running a poker game out of a bar and taking a rake."

An estimated 1 million to 2 million Americans are now playing online poker -- a trend fueled by televised poker tournaments and a flood of online games, books and other teaching aids. The U.S. Justice Department considers Internet poker games and other online gambling illegal but players and operators alike have largely thumbed their noses at the federal government, saying the law surrounding online gambling is unclear.

It's been nearly impossible for federal regulators to enforce the prohibition because the major Internet gambling sites operate from locations outside the United States in small countries where Internet bets are legal or unregulated.

Nevada is no different.

The Gaming Control Board cut short discussions about legalizing Internet gambling in 2002 after receiving official word of the Justice Department's opposition. Regulators at the time expressed concern that Internet operators could run afoul of federal law barring gambling across state lines.

The Internet transfers information over the path of least resistance, which could mean crossing state lines and using methods difficult to track, regulators said.

Keeping Internet operators out of Nevada "would be difficult to do because the Web sites move around so frequently," Neilander said.

"If we did an investigation, we would have to turn it over to the District Attorney or Attorney General's office. We would have to have some discussions with them to see if they have an appetite to consider those violations."

With a casino in close proximity to every home in the Las Vegas Valley, regulators and casino operators have long said that Internet gambling wouldn't be much of a threat to the state's casino industry and that Nevadans wouldn't gravitate to the Internet in droves.

The poker craze has created a different dynamic. Players say the presence of casinos has fueled interest in online poker and vice versa, creating a symbiotic relationship between casino poker rooms and their online counterparts that has become all too obvious in the nation's gambling capital.

The world's largest poker site, PartyPoker.com, now runs radio and television ads in Las Vegas. Local billboards advertise Internet poker sites, including a billboard near the airport that exclaims, "Your credit card will work here."

Internet poker worldwide generated some $1 billion in revenue last year and is expected to top $2.4 billion this year -- which is about what all of the table games on the Las Vegas Strip generated in gambling revenue last year, according to recent statistics compiled by gambling analysts Christiansen Capital Advisors. Last year online poker was 12 percent of worldwide Internet gambling revenue. This year poker's share is expected to climb to 20 percent.

By 2010, online poker revenue is expected to top $6.7 billion, or 27 percent of total Internet gambling and overtaking sports betting as the chief gambling activity online.

The Las Vegas Strip, by contrast, generated $5.3 billion in gambling revenue last year.

"When we first started looking at this I didn't believe it but I verified that with operators," Christiansen Capital President Sebastian Sinclair said. "It blew me away."

About 70 to 85 percent of online poker players are believed to be Americans.

The Orleans poker room -- Las Vegas' largest with about 40 tables -- has lost a few regular poker players to the Internet.

"For every one of those the Internet has brought us 10 players," Tournament Director Bryan Gurden said. "It's brought us more business than it has cost us."

A couple of years ago the Orleans poker room was about 80 percent local. With more players gambling on the Internet and watching poker on television, about half of the Gurden's customers these days are out-of-towners seeking live-action games.

Internet gamblers make up a "ton" of new players in the Bellagio's poker room -- home to some of the world's richest cash games, the casino's tournament director, Jack McClelland, said.

"Intimidation was one of the things that kept people out of the poker rooms," said McClelland, who is also a consultant for UltimateBet.com. "Poker players in general tend to be a little bit more aggressive than other individuals. They have a hard time turning it off in real life. They are the ones barking at the maitre d' or arguing with the front desk clerk."

McClelland said he is not paid by UltimateBet but receives a free, one-week vacation for promoting the site.

A majority of the 2,500 players who competed in the final championship event at last year's World Series of Poker -- the world's largest poker tournament -- gambled online and many won their $10,000 buy-in to the tournament from online satellite games, operators say.

The 2003 champion, the aptly named Chris Moneymaker, won his entry in the tournament from a site called PokerStars.com. Greg Raymer is another unknown who won his seat in the tournament from PokerStars.com and parlayed it into a championship.

The site recently awarded Miami Heat basketball star Shaquille O'Neal -- a Vegas regular -- with a complimentary seat in this year's tournament as a 33rd birthday present in addition to a year of poker coaching from Raymer.

Players are generally aware that the federal government doesn't like Internet gambling. Yet with all the major poker sites allowing Americans to gamble and the government doing little to stop them, players say they have no way of knowing that the sites are illegal.

Las Vegas resident Jeffrey Weisbroth, who plays at the Orleans poker room, is also a regular online.

"I work nights so it's convenient," Weisbroth said .

Weisbroth said he is not married to Internet poker and would give it up if the state publicized a position that the practice was illegal.

"I've heard conflicting information" on whether Internet poker is legal, he said. "If (Nevada) said it was illegal I'd cash out my bets. Just let me know."

Some attorneys argue that Internet poker falls into a legal gray zone.

The Wire Communications Act of 1961 outlaws sports betting over interstate lines and was intended to fight organized crime. Yet it is the primary federal law used to fight Internet gambling, a relatively modern invention. In a letter to Nevada regulators in 2002, the Justice Department applied the Wire Act to online bets. Some attorneys dispute that interpretation and often cite a 2001 federal court decision in Louisiana as a defense.

The court dismissed a lawsuit brought by gamblers who lost money on Internet sites and sued credit card companies for facilitating illegal bets. A judge tossed the suit and ruled the Wire Act didn't prohibit games of chance played online.

That hasn't stopped the federal government from going after offshore sites through their business partners.

The U.S. Attorney's Office in Missouri last year gathered evidence of Internet gambling advertising from media companies and has threatened to prosecute such companies for "aiding and abetting" online betting -- a move that resulted in some Internet, radio and television companies pulling ads for Internet casinos.

In the company's annual report issued this month, WPT Enterprises said the Travel Channel has removed names and logos of Internet poker sites from its telecasts because the law surrounding online gambling is "unclear."

Las Vegas casino companies including MGM Mirage and Harrah's have already tested the waters with Internet gambling sites that blocked U.S. bets. But those sites -- which featured complicated software that could detect where gamblers were located -- folded for lack of business.

The top few poker sites, with little overhead costs and unlimited table capacity, are making spectacular profit that has already outpaced the world's most profitable casinos.

Experts estimate that the largest poker site, PartyPoker.com, will likely generate some $500 million in operating cash flow this year. That compares with about $352 million for Bellagio last year and about $300 million for the Venetian -- the Strip's most profitable casinos.

Based on market share estimates for the largest poker sites, PokerStars.com generates about $125 million in operating cash flow compared with $75 million for PokerRoom.com and $50 million each for ParadisePoker.com, UltimateBet.com and PacificPoker.com.

By comparison, MGM Grand -- the Strip's largest property -- generated some $290 million in operating cash flow last year. Caesars Palace generated about $149 million last year and Bally's generated about $81 million.

PartyPoker.com's parent company is rumored to be considering an IPO that could value the company from $5 billion to $6 billion. That would put the site in league with Las Vegas casino giants with a market capitalization less than Strip giants MGM Mirage and Caesars Entertainment Inc. but larger than Station Casinos Inc. and Boyd Gaming Corp.

"It's a shocking amount of money," said John O'Malia, chief executive of BetBug Ltd., a Toronto-based company that offers sports bets and other proposition bets on a network similar to that offered by peer-to-peer music file-sharing services. "I have to wonder if the whole reason for going public is to do something in the land-based (casino) space."

Buying competitors doesn't make much sense because the site already is so much bigger than the competition, O'Malia said. An IPO would give the company enough cash to build land-based casinos using a powerful brand, however, he said.

Bettors using BetBug believe its more likely that the PartyPoker IPO could fetch more than $5.6 billion.

"It's a gravy business compared to online casinos and sports books, which can lose money sometimes," bettor Matthews said. "A poker room never loses. They keep raking it in."

Some of those figures were recently made public when a London-based Internet gambling empire bought ParadisePoker.com in November.

For the six months ended January 31, Sportingbet Plc's pre-tax profit shot up 118 percent to $18.3 million in part because of the poker site. Paradise Poker contributed about $15 million in operating profit over a three-month period and about $24 million in income.

The site now has more than 830,000 customers and received an average daily poker rake of $261,668 -- more than double last year. It offers 858,324 games per day, a 61 percent increase.

The World Poker Tour recently launched an online poker Web site -- the first owned by a U.S. company. The site has a mechanism that aims to block U.S. bets so as not to run afoul of federal law.

Harrah's Entertainment Inc. isn't far behind. The company is working on creating a real-money poker site using the World Series of Poker brand that also would block U.S. bets. The company also is developing a play-for-fun Web site for American gamblers, according to sources familiar with those plans.

ESPN, which has the broadcast rights to the World Series of Poker and has begun airing a television drama about poker players, recently introduced a play-for-fun site called ESPN Poker Club.

North Dakota generated buzz last month for introducing a bill that would have legalized online poker to raise tax revenue. The bill was easily defeated in the state Senate over concerns about a potential challenge from the Justice Department.

A similar move would be unlikely in Nevada, which has a casino industry to protect and "has decided it's not willing to challenge the federal government's interpretation," said Tony Cabot, a Las Vegas attorney and Internet gambling expert.

Burke, of Empire Poker, said the legal question will likely "fade away" with time.

A game that was played in smoky bars and casino back rooms five years ago is now aired on major TV networks, he said.

"It's a completely mainstream activity," Burke said. "It is part of the American (experience)."

Meanwhile, the federal government is continuing its war of words against Internet gambling.

The World Trade Organization last week issued a complex ruling that calls into question the United States' ban on Internet gambling with respect to a little-known federal law permitting Internet betting on horse races. The ruling isn't expected to slow Internet bets though the extent to which it could help online gambling is unclear.

In one respect, the WTO agreed with the United States' argument that the country can use the Wire Act to maintain "protect public morals or maintain public order." The federal government maintains that Internet gambling has connections with organized crime and has been used to launder drug money and fund terrorism. Internet gambling backers say such claims are a shot in the dark, unproven and even laughable.

Like many in the gaming business, Sexton believes the government is better off regulating and taxing Internet bets rather than trying to prohibit it.

"Online poker and the online (gambling) world is far bigger than the U.S. and you're never going to be able to stop it," he said. "It's just amazing to me that you have have lotteries and yet tell somebody who works for a living that he can't take $20 and buy into a tournament in his own home. It seems un-American."10"States just aren't going to get excited about someone placing $100 in an account in Aruba where it's legal. It's not only extremely difficult to track but it's such a minor thing on their radar screen."

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Attorneys for Plaintiff
1st TECHNOLOGY LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

1ST TECHNOLOGY LLC, Plaintiff, v. IQ-LUDORUM PLC, PLAYTECH CYPRUS LTD., TILTWARE LLC, and KOLYMA CORPORATION, A.V.V., Defendants.	)	CV-S-06-__________ **JURY DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff 1st Technology LLC ("1st Technology"), complains of Defendants IQ-Ludorum PLC, Playtech Cyprus Ltd., TiltWare LLC and Kolyma Corporation, A.V.V. (collectively "Defendants") as follows:

JURISDICTION AND VENUE

1. Jurisdiction exists under 28 U.S.C. § 1338(a) because Defendants are charged with patent infringement under 35 U.S.C. § 271.

EXHIBIT
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2. Defendants each have transacted business in this judicial district by making, using, selling or offering to sell and distributing software products that violate 1st Technology's patent either in this judicial district or in the United States.

3. Venue is proper under 28 U.S.C. §§ 1391(d) and 1400(b).

PARTIES

4. 1st Technology is a California limited liability company with offices at 654 North Santa Cruz Avenue #C169, Los Gatos, California 95030. 1st Technology is the assignee of and owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 5,564,001 entitled "Method and System for Interactively Transmitting Multimedia Information Over a Network Which Requires Reduced Bandwidth" ("the '001 Patent").

5. IQ-Ludorum PLC ("IQ-Ludorum") is a foreign company with offices at 28 Eccleston Square, Victoria, London SW1V 1NS, United Kingdom. IQ-Ludorum has previously and is presently making, using, selling, offering for sale, and/or importing into the United States software products that infringe one or more claims of the '001 Patent. IQ-Ludorum has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

6. Playtech Cyprus Ltd. ("Playtech") is a foreign company with offices at Athinadorou 3 Street, Dasoupolis, 2025 Strovolos Nicosia, Cyprus. Playtech has previously and is presently making, using, selling, offering for sale, and/or importing into the United States software products that infringe one or more claims of the '001 Patent. Playtech has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

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7. TiltWare LLC ("TiltWare") is a California company with offices at 10866 Wilshire Blvd., 4th Floor, Los Angeles, California, 90024. TiltWare has previously and is presently making, using, selling, offering for sale, and/or importing into the United States software products that infringe one or more claims of the '001 Patent. TiltWare has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

8. Kolyma Corporation, A.V.V. ("Kolyma") is a foreign company with offices at 62 Lloyd G. Smith Blvd., Oranjestad, Aruba. Kolyma has previously and is presently using, selling, offering for sale, and/or importing into the United States software products that infringe one or more claims of the '001 Patent. Kolyma has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

BACKGROUND

9. Dr. Scott Lewis ("Dr. Lewis") is an individual residing in Los Gatos, California. Dr. Lewis is the controlling manager of 1st Technology LLC. Dr. Lewis is the inventor of the '001 Patent.

10. Dr. Lewis received B.S. and M.S. degrees with honors in mechanical and electrical engineering from M.I.T. Dr. Lewis has a Ph.D. from Oxford University in adaptive digital signal processing as a Marshall Scholar and an M.B.A. from Harvard Business School. Dr. Lewis led the development of single-chip video and audio compression solutions, as well as the first automotive video cellular telephone.

11. Dr. Lewis is the inventor of a number of patents in multimedia communication technology including the separation, processing and recombination of multiple streams of multimedia data. This processing can include enhancement, compression and other forms of data manipulation. The inventions of Dr. Lewis' patents are used in many online wagering systems.

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PATENT INFRINGEMENT

12. Each of the Defendants has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

13. IQ-Ludorum has infringed and continues to infringe at least Claim 26 of the '001 Patent.

14. Playtech has infringed and continues to infringe at least Claim 26 of the '001 Patent.

15. TiltWare has infringed and continues to infringe at least Claim 26 of the '001 Patent.

16. Kolyma has infringed and continues to infringe at least Claim 26 of the '001 Patent.

17. Defendants' infringement, contributory infringement and/or inducement to infringe has injured 1st Technology and it, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

18. Each of defendant IQ-Ludorum, Playtech and TiltWare's infringement, contributory infringement and/or inducement to infringe has been willful and deliberate because each of defendant IQ-Ludorum, Playtech and TiltWare has been given notice of or knew of the '001 Patent and has nonetheless injured and will continue to injure 1st Technology, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale and/or offer for sale of products or services that come within the scope of the '001 Patent.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, 1st Technology requests a trial by jury on all issues presented that can properly be tried to a jury.

WHEREFORE, Plaintiff, 1st Technology, asks this Court to enter judgment, individually and jointly against defendants IQ-Ludorum PLC, Playtech Cyprus Ltd., TiltWare LLC, and Kolyma

Corporation, A.V.V., and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate 1st Technology for the infringement that has occurred, together with prejudgment interest from the date infringement began;

B. All other damages permitted by 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to 1st Technology of attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '001 Patent; and,

E. Such other and further relief as this Court or a jury may deem proper and just.

DATED this 15th day of March, 2006.

Respectfully submitted,

[signature]

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